

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

DUNG QUOC NGUYEN

PETITIONER

VS.

CIVIL ACTION NO. 5:09cv202-DCB-JMR

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY AND UNITED
STATES CITIZENSHIP AND
IMMIGRATION SERVICES

RESPONDENTS

ORDER

This cause came on this date to be heard upon the Report and Recommendation of the Chief United States Magistrate Judge, after referral of hearing by this Court, and the Court, having fully reviewed the Report and Recommendation of the Chief United States Magistrate Judge entered in this cause, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of Chief United States Magistrate Judge John M. Roper be, and the same is hereby, adopted as the finding of this Court, and that the Respondents' Motion to Dismiss [15] should be granted and Nguyen's Petition for Writ of Mandamus [1] should be dismissed based upon this Court's lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1), or in the alternative, for failure to state a claim upon which relief may be granted under Rule 12(b)(6).

A separate judgment will be entered herein in accordance with the Order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this the 18th day of April, 2011.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE